

## § 1.219

### § 1.219 Early publication.

Applications that will be published under § 1.211 may be published earlier than as set forth in § 1.211(a) at the request of the applicant. Any request for early publication must be accompanied by the publication fee set forth in § 1.18(d). If the applicant does not submit a copy of the application in compliance with the Office electronic filing system requirements pursuant to § 1.215(c), the Office will publish the application as provided in § 1.215(a). No consideration will be given to requests for publication on a certain date, and such requests will be treated as a request for publication as soon as possible.

### § 1.221 Voluntary publication or republication of patent application publication.

(a) Any request for publication of an application filed before, but pending on, November 29, 2000, and any request for republication of an application previously published under § 1.211, must include a copy of the application in compliance with the Office electronic filing system requirements and be accompanied by the publication fee set forth in § 1.18(d) and the processing fee set forth in § 1.17(i). If the request does not comply with the requirements of this paragraph or the copy of the application does not comply with the Office electronic filing system requirements, the Office will not publish the application and will refund the publication fee.

(b) The Office will grant a request for a corrected or revised patent application publication other than as provided in paragraph (a) of this section only when the Office makes a material mistake which is apparent from Office records. Any request for a corrected or revised patent application publication other than as provided in paragraph (a) of this section must be filed within two months from the date of the patent application publication. This period is not extendable.

## 37 CFR Ch. I (7–1–01 Edition)

### MISCELLANEOUS PROVISIONS

### § 1.248 Service of papers; manner of service; proof of service in cases other than interferences.

(a) Service of papers must be on the attorney or agent of the party if there be such or on the party if there is no attorney or agent, and may be made in any of the following ways:

(1) By delivering a copy of the paper to the person served;

(2) By leaving a copy at the usual place of business of the person served with someone in his employment;

(3) When the person served has no usual place of business, by leaving a copy at the person's residence, with some person of suitable age and discretion who resides there;

(4) Transmission by first class mail. When service is by mail the date of mailing will be regarded as the date of service;

(5) Whenever it shall be satisfactorily shown to the Commissioner that none of the above modes of obtaining or serving the paper is practicable, service may be by notice published in the *Official Gazette*.

(b) Papers filed in the Patent and Trademark Office which are required to be served shall contain proof of service. Proof of service may appear on or be affixed to papers filed. Proof of service shall include the date and manner of service. In the case of personal service, proof of service shall also include the name of any person served, certified by the person who made service. Proof of service may be made by:

(1) An acknowledgement of service by or on behalf of the person served or

(2) A statement signed by the attorney or agent containing the information required by this section.

(c) See § 1.646 for service of papers in interferences.

[46 FR 29184, May 29, 1981, as amended at 49 FR 48454, Dec. 12, 1984]

### § 1.251 Unlocatable file.

(a) In the event that the Office cannot locate the file of an application, patent, or other patent-related proceeding after a reasonable search, the